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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,621	09/15/2000	Christine Andreis	2119-4203	9229

23906 7590 08/26/2003

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

EXAMINER

FERGUSON, LAWRENCE D

ART UNIT	PAPER NUMBER
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1774-

DATE MAILED: 08/26/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/600,621

Examiner

Lawrence D Ferguson

Applicant(s)

ANDREIS ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-11, 13-19 and 21-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-11, 13-19 and 21-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Amendment

1. This action is in response to the amendment mailed June 06, 2003.
Claim 1 was amended and claim 27 was added rendering claims 1-6, 8-11, 13-19 and 21-27 pending.

Claim Rejections – 35 USC § 103(a)

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6, 8-11, 13-19 and 21-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shetty et al. (U.S. 5,837,359).

Shetty discloses a film comprising at least one crystalline polyester coextruded layer of polyethylene terephthalate or polybutylene terephthalate and that only the outermost skin layers comprise pearlescent titanium dioxide pigment (column 2, lines 12-15, lines 49-60 and claim 1) where a pearlescent pigment is analogous to a white pigment. Shetty discloses that the layers comprise up to 12.5% of the pigment in the skin layers (column 3, lines 37-55). Shetty shows that the outermost skin layers are at least 5% of the total thickness of the film (ratio of thickness of 1 or more) (column 1, lines 59-67) and that the particles in the skin layers have a size of 2-15 μ m (column

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2, lines 49-54). Shetty discloses in column 1, lines 26-35, that it is known to make films with a skin material containing pigments of particle sizes less than or equal to 1 micron. The experimental modification of prior art in order to optimize operation conditions (e.g. determine thickness and compositional proportions) fails to render claims patentable in the absence of unexpected results. In re Boesch, 205 USPQ 215 (CCPA 1980).

Response to Arguments

4. Rejection made under 35 USC 102(e) as being anticipated by Shetty et al. (U.S. 4,202,139) has been withdrawn due to Applicant amending claim 1 and adding claim 27. Applicant's remarks to 35 USC 103(a) as being unpatentable over Shetty et al. (U.S. 4,202,139) have been considered but have not been found persuasive. Applicant argues 'consisting essentially of' excludes pearlescent pigment. Examiner disagrees because a pearlescent pigment is analogous to a white pigment, which is claimed by Applicant. Applicant further argues the transparent or translucent property of Shetty's pigment is directly contrary to the purpose of the present invention directed to a need for 'good opacity property' yet 'minimizing the overall pigment content. Because the pearlescent (white) pigment of Shetty is coated with titanium dioxide, the transparent pigment obtains good opacity.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lawrence Ferguson whose telephone number is (703)


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305-9978. The examiner can normally be reached on Monday through Friday 8:30 AM – 4:30PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on (703) 308-0449. Please allow the examiner twenty-four hours to return your call.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2351.



Lawrence D. Ferguson
Examiner
Art Unit 1774



ELIZABETH MULVANEY
PRIMARY EXAMINER

ELIZABETH MULVANEY
PRIMARY EXAMINER